

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3-24-11
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-v- :

VITESSE SEMICONDUCTOR CORPORATION, :
LOUIS R. TOMASETTA, EUGENE F. :
HOVANEC, YATIN D. MODY, NICOLE R. :
KAPLAN, :

Defendants. :

----- X
JED S. RAKOFF, U.S.D.J.

10 Civ. 9239 (JSR)

ORDER

On March 4, 2011, non-party Nu Horizons Electronic Corporation ("NuHo") moved to quash the subpoenas issued by defendants Tomasetta and Hovanec to the extent that they sought disclosure of an internal report and related materials prepared at the direction of NuHo's independent audit committee. On March 15, 2011, the Court issued a "bottom-line" Order denying NuHo's motion to quash, but indicating that NuHo was free to submit a proposed protective order to limit disclosure of the internal report and related materials to parties other than parties to this lawsuit. On March 22, 2011, during a joint telephonic conference with the Court, the parties sought clarification regarding the definition of "related materials" to assist them in drafting a proposed protective order. The Court hereby clarifies that the materials referred to in the March 15, 2011 Order only include (i) the seventy-eight page written summary of Gage Spencer Fleming ("GSF") and FTI Consulting, Inc.'s conclusions; (ii) the Power Point

Presentation prepared by GSF for NuHo's audit committee summarizing GSF and FTI Consulting, Inc.'s conclusions; and (iii) six tables prepared by FTI Consulting Inc. summarizing its conclusions. However, while the March 15, 2011 ruling only covers these limited materials, that ruling is without prejudice to further applications the parties may make regarding other materials.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Jed S. Rakoff', is written over a horizontal line.

JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
March 23, 2011